

1 YAR R. CHAIKOVSKY (SB# 175421)
yarchaikovsky@paulhastings.com
2 PHILIP OU (SB# 259896)
philipou@paulhastings.com
3 JOSEPH J. RUMPLER, II (SB# 296941)
josephrumpler@paulhastings.com
4 ANDY LEGOLVAN (SB# 292520)
andylegolvan@paulhastings.com
5 BERKELEY FIFE (SB# 325293)
berkeleyfife@paulhastings.com
6 BORIS LUBARSKY (SB# 324896)
borislubarsky@paulhastings.com
7 PAUL HASTINGS LLP
1117 S. California Avenue
8 Palo Alto, California 94304-1106
Telephone: 1(650) 320-1800
9 Facsimile: 1(650) 320-1900

10 Attorneys for Plaintiff
APPLIED MATERIALS, INC.

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 APPLIED MATERIALS, INC.,
16 Plaintiff,
17 vs.
18 DEMARAY LLC,
19 Defendant.
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CASE NO. 5:20-cv-05676-EJD

**APPLIED MATERIALS, INC.'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

[Civ. L.R. 3-12]

[Potentially Related Case: 3:20-cv-09341]

APPLIED'S ADMIN. MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED

1 Applied Materials, Inc. (“Applied”) submits this administrative motion to consider
2 whether this case, *Applied Material, Inc. v. Demaray LLC*, No. 5:20-cv-05676-EJD (N.D. Cal.)
3 (“*Applied I*”), should be considered a “related case” under Local Rule 3-12 to the following
4 action: *Applied Material, Inc. v. Demaray LLC*, No. 3:20-cv-09341 (N.D. Cal.) (“*Applied II*”).

5 “An action is related to another when: (1) The actions concern substantially the same
6 parties, property, transaction or event; and (2) It appears likely that there will be an unduly
7 burdensome duplication of labor and expense or conflicting results if the cases are conducted
8 before different Judges.” L.R. 3-12(a).

9 Both actions involve the same parties (Applied and Demaray), both actions relate to
10 whether Applied and Applied’s products infringe two of Demaray’s patents, and both actions
11 raise additional claims relating to the same license and ownership defenses of non-infringement
12 relating to Demaray’s patents. As explained in Applied’s Administrative Motion to Lodge New
13 Declaratory Judgment Complaint, Dkt. No. 48, Applied filed the new complaint in *Applied II* in
14 view of the Court’s finding that Applied did not plead in its operative complaint a sufficient
15 controversy to warrant declaratory judgment jurisdiction. Dkt. No. 47 (denying Applied’s motion
16 for preliminary injunction). With the exception of additional factual allegations added to the new
17 complaint in Case No. 3:20-cv-09341 relating to subject matter jurisdiction and the
18 aforementioned non-infringement causes of action, the actions are substantively identical.
19 Demaray does not appear to disagree that the two cases are related, and has acknowledged that for
20 judicial efficiencies, *Applied II* should proceed before the same district judge as *Applied I*. Ou
21 Declaration at ¶ 2.

1 DATED: December 28, 2020

YAR R. CHAIKOVSKY
PHILIP OU
JOSEPH J. RUMPLER, II
ANDY LEGOLVAN
BERKELEY FIFE
BORIS LUBARSKY
PAUL HASTINGS LLP

6 By: /s/ Yar R. Chaikovsky
YAR R. CHAIKOVSKY

Attorneys for Plaintiff
APPLIED MATERIALS

CERTIFICATE OF SERVICE

Pursuant to Local Rules 3-12(b) and 5-5(a), this motion was served on all known parties to each apparently related action by serving Defendant Demaray LLC's counsel of record by email at the following addresses:

Morgan Chu (#70446)
MChu@irell.com
Benjamin W. Hattenbach (#186455)
BHattenbach@irell.com
C. Maclain Wells (#221609)
MWells@irell.com
IRELL & MANELLA LLP
demaray-service@irell.com